

## **Assembly Joint Resolution No. 49**

### **RESOLUTION CHAPTER 136**

Assembly Joint Resolution No. 49—Relative to pharmaceutical advertisements.

[Filed with Secretary of State September 7, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AJR 49, Nation. Direct-to-consumer prescription drug advertisements.

This measure would request that the United States Food and Drug Administration aggressively monitor and regulate direct-to-consumer television advertising of prescription drugs by pharmaceutical companies, and would memorialize the President and the Congress of the United States to ban that advertising.

WHEREAS, The United States is one of just a few countries that allow pharmaceutical companies to advertise prescription drugs; and

WHEREAS, Direct-to-consumer prescription drug advertising is a category of promotional information about specific drug treatments that is provided directly to consumers by or on behalf of drug companies; and

WHEREAS, Direct-to-consumer prescription drug advertising is not necessary in order for pharmaceutical companies to sell their products; and

WHEREAS, Since pharmaceutical companies have been allowed to broadcast advertisements that mention a prescription drug by name without disclosing all of the risks of that medication, consumer demand for prescription medications has increased, resulting in a corresponding increase in the cost of prescriptions and of health care delivery; and

WHEREAS, While the pharmaceutical community has tried to convince the public, Congress, and the United States Food and Drug Administration (hereafter the FDA) that direct-to-consumer prescription drug advertisements are educational rather than promotional, the actual goal of the advertisements is not to educate the public, but rather to ensure that patients walk out of their doctors' offices with a prescription for a particular brand of prescription drug rather than with a prescription for a competitor's product or some other form of therapy that better suits the patient; and

WHEREAS, Physicians are under increasing pressure from patients who suspect that health maintenance organization formularies restrict physicians from prescribing the best prescription drugs; and

WHEREAS, Direct-to-consumer advertising of prescription drugs forces physicians to spend valuable time defending the reason that an advertised drug is unnecessary or detrimental to the patient's health; and

WHEREAS, If a physician declines to issue a prescription for a drug that a patient has seen advertised, the patient may turn to other sources to obtain the drug, including the Internet; and

WHEREAS, According to the United States General Accounting Office, the investigational arm of Congress, pharmaceutical manufacturers spent \$1.1 billion in 1997 on direct-to-consumer prescription drug advertising, which increased to \$2.7 billion in 2001, with expenditures increasing by double digits every year; and

WHEREAS, Numerous studies have linked the increased direct-to-consumer prescription drug advertising to the exponential growth in prescription drug expenditures; and

WHEREAS, In 1997, the FDA relaxed restrictions on the content of direct-to-consumer prescription drug advertising, withdrawing the prior requirement of a summary of side-effect and adverse reaction information and replacing it with a requirement for a statement about “major risks” but not “all risks,” which made television and radio advertisements about prescription drugs more practicable; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the United States Food and Drug Administration is requested to aggressively monitor and regulate direct-to-consumer television advertising of prescription drugs by pharmaceutical companies, pending action by the President and the Congress of the United States to ban that type of advertising; and be it further

*Resolved,* That the President and the Congress of the United States are memorialized to ban direct-to-consumer television advertising of prescription drugs by pharmaceutical companies; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the United States Department of Health and Human Services, and to the Director of the United States Food and Drug Administration.